



Department of Planning, Housing, & Community Development

Mayor, Richard C. David

Director, Jennie Skeadas-Sherry, AICP

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: July 11, 2014
SUBJECT: 159 Washington Street; Area Variances
TAX ID #: 160.40-2-10
CASE: 2014-18

A. REVIEW REQUESTED

This application would provide for the addition of a canopy over an existing porch on the rear of the subject property. The existing porch is setback approximately 6 feet from the rear property line. In the C-2 Downtown Business District a 20-foot rear setback is required. Per section 410-13 D, a porch shall not be considered in the determination of yard requirements, provided that it is without roof, awnings, screens, walls, parapets or other forms of enclosure. The applicant has proposed the addition of a canopy over the existing porch, therefore requiring that it meet the rear setback requirement of 20 feet. Since the porch is only setback 6 feet from the rear property line, an area variance for rear yard setback is required.

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;
- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship**: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall

deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. SITE REVIEW

The subject property is located on the west side of Washington Street, facing what is known as the Metro Center Plaza. The proposed work would be done on the rear of the building, facing west towards Water Street and would be visible from the street due to the recent demolition of the structure 162 Water Street.

Land use on Water Street and Washington Street consists primarily of commercial use, with some upper story residential and office use. Businesses in the vicinity include Boscov's, Water Street Brewing Co., Nirchi's Pizzeria, Old World Deli, Galaxy Brewing Co., and the Metro Center, among others.

C. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

7 Court Street: In October of 2012, the Zoning Board of Appeals granted a variance for Minimum Off-Street Parking, required for new construction in the C-2 District.

31 Court Street: In June of 2012, Planning Staff granted a Series A Site Plan / Special Use Permit Exception for a Nail Salon in the C-2 District.

37 Court Street: Starr Child Day Care was given permission to operate a day care center in 1995 through a Series B Site Plan review.

40 Court Street: In January of 2012, the Planning Commission approved a Series A Site Plan / Special Use Permit for a Multi-Unit Dwelling (More than 4 Bedrooms).

41 Court Street and 153-157 Washington Street: In 2011 the Planning Commission granted a Special Use Permit and Series A Site Plan Approval to Galaxy Brewing Company, LLC to establish a brewpub.

47 Court Street: In 2012 the Planning Commission granted a Special Use Permit and Series A Site Plan Approval to Evison Properties, LLC, for the creation of one (1) residential unit with five (5) bedrooms, located on the second floor of the existing building.

49 Court Street:

- In August of 2000, the Planning Commission granted a Special Use Permit and Series A Site Plan Review to Metrocenter Associates LLC to construct a 25,180 square foot, third floor addition to the Metrocenter.
- The Zoning Board of Appeals granted an area variance of off-street parking to Metrocenter Associates LLC to construct a 25,180 square foot, third floor addition to the Metrocenter.

227-241 Washington Street: In 1989, the Zoning Board of Appeals granted two area variances regarding off-street parking requirements to Sarbro Realty to permit the construction of an office building.

245 and 249 Washington Street: In 1987, the Planning Commission granted a Special Use Permit to the First Assembly of God to use the building at 249 Washington Street as an accessory to the church and to use 245 Washington Street for parking.

168 Water Street: A Series B Site Plan application submitted by the Broome County Department of Social Services for a day care center and business office was approved by the Planning Department in 1988.

D. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Type II** Action. No further review is required.

E. STAFF FINDINGS

Planning Staff has the following findings:

The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.

The requested variance would not produce an undesirable change as the footprint of the terrace is not changing. The proposed awning will improve conditions, as the mechanical equipment on the façade of the building will be concealed as part of this project.

The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.

The applicant alleges that the canopy is necessary to identify the business from Water Street and to provide cover for customers entering and exiting the building. Eliminating the canopy, which is likely the only alternative, would not meet the needs of the business.

The Zoning Board of Appeals must determine if the proposed area variances are substantial.

The proposed variance is not substantial, as the terrace footprint is not actually encroaching further into the minimum setback zone.

The Zoning Board of Appeals must determine whether the alleged difficulty was self created.

The difficulty was not self created. The original storefront, which was located at 162 Water Street, was destroyed by a fire. After the demolition of the main building, the rear of 159 Washington Street has become the primary Water Street entrance. In order to denote the stair and doorway as a primary entrance to a commercial establishment, as well as shelter the entrance from the elements, the applicant believes that the canopy is necessary.

F. ENCLOSURES

Enclosed is a copy of the application, plans and site photographs.